

HEARING ON MITIGATING CIRCUMSTANCES

(a) Generally. The court shall conduct the hearing concerning mitigating circumstances in accordance with applicable law.

(b) Procedure at Hearing. The court shall hold an informal hearing which shall not be governed by the Rules of Evidence. Subject to the other provisions of these rules, all relevant evidence is admissible which, in the opinion of the judge, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. The plaintiff and the defendant may each be represented by a lawyer. The defendant may present witnesses, but they may not be compelled to attend.

(c) Disposition. The court shall determine whether the defendants explanation of the events justifies reduction of the monetary penalty. The court shall enter an order finding the defendant committed the infraction and may assess a monetary penalty. The court may not impose a penalty in excess of the monetary penalty provided for the infraction by law. The court may waive or suspend a portion of the monetary penalty, or provide for time payments, or in lieu of monetary payment provide for the performance of community restitution as provided by law. The court has continuing jurisdiction and authority to supervise disposition for not more than one (1) year.

[Adopted effective January 1, 1981; Amended effective September 1, 1992; January 3, 2006.]